

TITLE: 24/01323/FUL

Committee: Planning Committee

Date: 7 May 2025

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Report No: Z173

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Site Address: The Heartlands Pools Road Wilburton Ely Cambridgeshire CB6 2UY

Proposal: Change of use and retrospective siting of 1no mobile home and 1no. touring caravan, outbuilding/shed for gypsy and traveller accommodation

Applicant: Mr Smith

Parish: Wilburton

Ward: Stretham

Ward Councillor/s: Bill Hunt
Caroline Shepherd

Date Received: 19 December 2024

Expiry Date: 13 February 2025

1.0 RECOMMENDATION

1.1 Members are recommended to APPROVE the application subject to the recommended conditions summarised below: The conditions can be read in full on the attached Appendix 1 of the report.

- 1 Approved Plans
- 2 Materials
- 3 Soft landscaping
- 4 Soft landscaping- retained
- 5 No further lighting
- 6 LEMP
- 7 Hedgehog Recovery
- 8 Boundary treatment
- 9 Surface Water
- 10 SUDs

1.2 The application is being heard by committee because it was called in by Councillor Bill Hunt for the following Reasons:

- Consideration of public interest in the application

2.0 SUMMARY OF APPLICATION

2.1 The application seeks retrospective planning permission for the change of use and siting of 1no mobile home and 1no touring caravan, outbuilding/shed for gypsy and traveller accommodation.

2.2 The application site utilises an existing access which was approved under application reference 13/01117/FUM and matters relating to pre-commencement conditions were discharged under application 13/01117/DISA.

2.3 The touring and static caravans are laid upon an area of hardstanding laid down and created within the site, with the remaining area of the site used as residential garden and parking associated with the on-going use of the land.

2.4 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link [Simple Search](#).

3.0 PLANNING HISTORY

On site

3.1 13/01117/FUM – Change of use of land to equestrian use, erection of livery stables and outdoor riding arena **(Permitted)**

3.2 13/01117/DISA – Discharge conditions 6, 8, 10 and 11 of application 13/01117/FUM **(Conditions Discharged)**

On adjacent site to the west

3.3 17/01560/FUM – Change of use of paddock to 10 pitches for traveller families **(Refused)**

3.4 18/01391/FUM – Change of use of land to 10 Gypsy/Traveller pitches comprising 10no. mobile homes, 10no. touring caravans, hardstanding, foul drainage. **(Refused)**

3.5 20/00678/FUM – Change of Use of Land to 10 Gypsy/Traveller Pitches each with a residential static caravan and touring caravan (temporary or permanent), establishment of access and formation of hardstanding for occupation – **(Withdrawn)**

3.6 22/00341/FUM - Change of use of land to 10 residential Gypsy / Traveller pitches each with a residential static caravan and one touring caravan (temporary or

permanent), works to access and formation of hardstanding. **(Refused and Appeal Dismissed)**

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The application site comprises a parcel of land located to the north of Pools Road nearest the junction with Grunty Fen Road. The site is served by a vehicular access which was introduced prior to the existing development, the subject of this application, as part of a previously consented development at the site under application 13/01117/FUM.
- 4.2 The in-situ arrangement has introduced hardstanding into the site in the form of tarmac upon which the proposed caravans and ancillary structures are placed. To the north of the site lies a barn and container associated with the on-going equestrian use of land abutting the site.

5.0 RESPONSES FROM CONSULTEES

- 5.1 Responses were received from the following consultees Environment Agency, Ecology, parish Council(s) and these are summarised below. The full responses are available on the Council's web site.

Parish - 21 January 2025

Contrary to ENV1 of the ECLP (East Cambridgeshire Local Plan), the proposed development would have a visually detrimental impact on the surrounding countryside. The site is situated in open countryside characterised by flat open fields bounded by hedgerows and linear ditches, which are typical features of the area's landscape.

The proposal would result in the loss of both historic and natural environmental features, which is inconsistent with Policies ENV7 and ENV11-15 of the ECLP 2015. Furthermore, it conflicts with the NPPF 2021, Chapter 12, which emphasises conserving and enhancing the natural environment while respecting local character.

The development would be contrary to Policy HOU9 of the ECLP, which requires that proposals for Gypsy, Traveller, and Travelling Showpeople accommodation have no adverse impact on the character and appearance of the countryside.

The Witchford Landscape Appraisal, an adopted part of the Witchford Neighbourhood Plan, further underscores the inappropriateness of the proposal. The appraisal identifies the "visual sensitivity of the land south of the urban edge when viewed from the wider landscape" as a Key Landscape Sensitivity, emphasising the importance of protecting this valued environment from harmful development.

There are significant concerns regarding flood risk. While the Environment Agency has raised no objections, it acknowledges that the site lies predominantly within Flood Zone 3, which the Planning Practice Guidance (PPG) defines as having a

high probability of flooding. Annex 3 of the NPPF classifies the residential use of caravans as "highly vulnerable" development. Table 2 of the PPG makes it clear that such development is incompatible with Flood Zone 3 and should not be permitted.

The Planning Policy for Traveller Sites (PPTS) does not oppose sites in the countryside outright; however, Policy H (paragraph 25) advises that LPA should "very strictly limit" such developments in open countryside away from existing settlements. It is noted that this area already accommodates a significant proportion of the Gypsy, Traveller, and Travelling Showpeople population within East Cambridgeshire. Any additional development in this area would exacerbate an imbalance and further concentrate such uses in the countryside.

Parish - 13 January 2025

Planning permission has only been granted (April 2014) for an equestrian facility on this site (stables and outdoor riding arena). What is now present on the site, for which planning permission is requested, is residential and in our view is totally out of character with, and harmful to the area in which it is situated.

The site is not within either of the nearby village development envelopes of Witchford or Wilburton. It lies in an isolated position within the fenland landscape of Grunty Fen, a wide open, low-lying (much of it below sea level) agricultural area of large fields bounded by linear ditches, a few hedges and small pockets of woodland. The site of the proposed development is an integral part of this traditional rural landscape. Apart from a few farms and cottages around the site of the former railway station, there is no built development. Haphazard built development in this landscape would seriously harm its traditional appearance and use.

Parish - 9 January 2025

By allowing and giving permission for this application it sets a precedent. Previous planning on this site has been rejected (on four occasions). Council have concerns that the site will grow over time, posing higher safety concerns with access to the highway.

East Cambs Ecologist - 10 January 2025

BNG exemption, however, local policy and NPPF say that measurable environmental gains should be achieved to maximise opportunities for biodiversity this has not yet been achieved. Currently the retrospective works will have caused a net loss.

Environment Agency - 20 January 2025

We have reviewed the documents as submitted and we have no objection to this planning application.

Parish - 9 January 2025

There is a significant flood risk at this site. All of the above is contrary to Policy ENV8 in the 2015 ECDC Local Plan.

The proposed development is not suitable for the location in the open countryside and contravenes the 2015 ECDC Local Plan.

Policy ENV 1 Landscape and Settlement Character. The site is outside the development envelope and is contrary to the village vision and spatial strategy for Wilburton as set out in the 2015 ECDC Local Plan.

5.2 A site notice was displayed near the site on the 8th January 2025.

5.3 Neighbours – three neighbouring properties were notified and the responses received are summarised below. A full copy of the responses are available on the Council's website.

- East Cambs GTAA identifies no requirement for Gypsy and travellers between 2016-2034
- Site is located within Flood Zone 3 and no sequential test has been carried out
- No demonstrable need for the development

6.0 THE PLANNING POLICY CONTEXT

6.1 East Cambridgeshire Local Plan 2015 (as amended 2023)

GROWTH 2: Locational strategy

GROWTH 3: Infrastructure requirements

GROWTH 4: Delivery of growth

GROWTH 5: Presumption in favour of sustainable development

ENV 1: Landscape and settlement character

ENV 2: Design

ENV 4: Energy and water efficiency and renewable energy in construction

ENV 5: Carbon offsetting

ENV 7: Biodiversity and geology

ENV 8: Flood risk

ENV 9: Pollution

HOU 9: Gypsies, travellers and travelling showpeople sites

COM 7: Transport impact

COM 8: Parking provision

6.2 Supplementary Planning Documents

East Cambridgeshire Design Guide

Developer Contributions and Planning Obligations

Flood and Water

Contaminated Land

Natural Environment

Climate Change

RECAP Waste Management Design Guide

6.3 National Planning Policy Framework (December 2024)

Chapter 2 – Achieving sustainable development

Chapter 5 – Delivering a sufficient supply of homes

Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 12- Achieving well-designed places
Chapter 15- Conserving and enhancing the natural environment

6.4 **Planning policy for traveller sites (2024)**

7.0 **PLANNING MATERIAL CONSIDERATIONS AND COMMENTS**

7.1 **Background**

7.2 In 2022, a planning application was made to the local planning authority for the change of use of land to 10 residential gypsy/traveller pitches each with a residential static caravan and one touring caravan at land north of Pools Road, Wilburton. The application was subsequently refused by the LPA and the subject of an appeal (Appendix 2).

7.3 The Inspector concluded within the appeal decision that the depth and incursion of the pitches into the open land would have a harmful effect on the landscape, coupled with the natural increase in land levels resulting in the ten pitches appearing prominent causing conflict with Policy ENV 1 of the Local Plan.

7.4 The second matter considered within the appeal decision was whether the proposal was located within a reasonable distance of services and facilities. The Inspector concluded that the use of the land for gypsy and travellers sites, would be an exception set out in policy GROWTH2 meaning that sites were likely to be located outside of the development envelope. Owing to the sites location to Witchford, where a good range of services exist, the Inspector concluded that the proposal would not conflict with Policy HOU 9 (point one).

7.5 Furthermore, the Inspector concluded that whilst there was a lack of five-year supply of traveller sites within the district with a likely substantial unmet need, that the proposal would have a significant adverse impact on the character and appearance of the countryside which weighed against the proposal.

7.6 The appeal site is located directly to the west of the application site, the subject of this report. The appeal decision is considered a material consideration within the assessment of the application and reference is made to this within the main body of this committee report.

7.7 **Principle of Development**

7.8 The application site falls outside of the development envelope of any settlement within the district and as such, is considered to be an area within the countryside for the assessment of applications against planning policy. GROWTH policies within the development plan aim to focus development within or on the edge of towns and villages, and to minimise unnecessary development of open fields and countryside areas of the district.

- 7.9 Policy HOU9 states that proposals for Gypsy, Traveller and Travelling Showpeople accommodation should meet the following criteria:
- Adequate schools, shops and other community facilities are within reasonable travelling distance.
 - There is no significant adverse impact on the character and appearance of the countryside and the setting of settlements.
 - The site would not lead to the loss or adverse impact on historic and natural environment assets as defined in Policies ENV7 and ENV11-15.
 - There is no significant risk of land contamination.
 - There is no unacceptable risk of flooding.
 - The scale of the proposal is not disproportionate to the size of the nearest settlement and the availability of community facilities and infrastructure.
 - The site provides a suitable level of residential amenity for the proposed residents and there is no significant adverse impact on the amenity of nearby residents.
 - Safe and convenient vehicular access to the local highway network can be provided together with adequate space to allow for the movement and parking of vehicles.
 - Essential services (water, electricity and foul drainage) are available on site or can be made available.
- 7.10 The Planning Policy for Traveller Sites (PPTS) revised in 2024 does not expressly restrict Traveller sites in the countryside. Para 26 of the PPTS sets out that Local planning authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. In addition, para 26 sets out that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
- 7.11 Within the assessment of application 22/00341/FUM, which related to a proposal for 10 Gypsy and Traveller pitches at a neighbouring site, officers commented that the PPTS anticipated traveller sites to be located in the countryside (outside of the Green Belt). It was concluded that when having regard for the PPTS and local policy, the location of the site outside of the development envelopes, were not considered to have any significant weight in the determination of the application as being within the countryside did not mean the application for traveller sites should be refused in principle. The comments within the 2022 application remain relevant for the current proposal, in light of the designation and local development plan remaining the same as that against which both applications would be considered.
- 7.12 Within the PPTS (2024) Policy B, Para 10, it states that: local planning authorities should, in producing their Local Plan:
- a) identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets⁴;
 - b) identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15;
 - c) consider production of joint development plans that set targets on a cross_authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area

(local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries);

d) relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surround

7.13 Policy H, paragraph 23 of the PPTS notes that planning law requires applications for planning permission to be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. The PPTS in its introduction sets out that it should be read in conjunction with the National Planning Policy Framework. Within these, applications should be assessed and determined in accordance with the presumption in favour of sustainable development in the NPPF and the PPTS. It says that local planning authorities should consider the following issues, amongst other relevant matters, when considering planning applications:

a) the existing level of local provision and need for sites

b) the availability (or lack) of alternative accommodation for the applicants

c) other personal circumstances of the applicant

d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches should be used to assess applications that may come forward on unallocated sites

e) that they should determine applications for sites from any travellers and not just those with local connections.

7.14 As such, in respect of Policy H, officers have considered the following:

(a) The existing level of provision and need for traveller pitches

In 2016 the Council commissioned a Gypsy and Traveller Accommodation Assessment to inform a Local Plan Review. Published in October that year it concluded that there was no need for any additional pitches in the district for gypsy & traveller households that meet the 2015 PPTS definition, a need of up to 40 additional pitches for those households that may meet the new definition (although it is indicated that this might be considerably less), and a need for 10 additional pitches for households which do not meet the new definition. It is noted that the review was carried out against the 2015 PPTS definition, which is now outdated and a review has not been subsequently carried out against the 2024 PPTS.

An assessment of the 2015 PPTS was found to be unsound during an appeal (ref: APP/V0510/W/19/3243732) with the Inspector concluding that there is likely a higher unknown need for pitches across the district than the assessment identifies. In this regard, the Council accepts that notwithstanding the age of the evidence, there is highly likely a need for more pitches in the District. This has resulted in the approval of several pitches in recent years in the Wentworth and Wilburton area.

7.15 Since the assessment of the 2019 appeal and the application at the neighbouring site (22/00341/FUM), it is considered that the Council remain unable to adequately demonstrate that they have a 5-year supply of traveller pitches at the current time. As such, the Council are unable to deliver on section 5 of the PPTS (2024) relating to delivery of sites or future growth locations.

(b) the availability (or lack) of alternative accommodation for the applicants

7.16 Based on the current status of the GTAA therefore, it is concluded that the Council is unable to adequately demonstrate that they have a 5-year supply of traveller pitches at present. Therefore, it can be reasonably concluded that the Council would be unable to confirm the availability of alternative accommodation for the applicants as per part (b) of the PPTS. Policy H states that where an authority cannot demonstrate an up-to-date five-year supply of pitches, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

7.17 Para 28 of the PPTS (2024) sets out that, if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:

- a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise;
- b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events);
- c) limiting the maximum number of day for which caravans might be permitted to stay on a transit site.

(c) other personal circumstances of the applicant

7.18 The application is not supported by an assessment of the needs of the applicant. Officers do note that the application should be assessed against the currently unmet needs of a single gypsy traveller household which will be considered separately but also within the planning balance and weighted accordingly.

(d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches should be used to assess applications that may come forward on unallocated sites

7.19 For gypsy and traveller accommodation, Policy HOU9 sets out criteria as to a site's suitability for occupation by those who meet the planning definition set out in Planning Policy for Traveller Sites 2015 (PPTS). Decisions are made on a "case by case" basis subject to the following;

- There is no significant adverse impact on the character and appearance of the countryside and the setting of settlements.
- The site would not lead to the loss or adverse impact on historic and natural environment assets as defined in Policies ENV7 and ENV11-15.
- The scale of the proposal is not disproportionate to the size of the nearest settlement and the availability of community facilities and infrastructure.

These matters have been considered within a later stage of this report and the development has been identified not to be in conflict, having regard for all material considerations. For the purposes of considering the planning principle, there is no conflict with part (d).

(e) that they should determine applications for sites from any travellers and not just those with local connections. [This is a fixed requirement and is noted throughout the assessment]

7.20 The application proposal does not clarify the relationship of the applicant to the area. However, officers note the requirement of this element.

7.21 In light of the above, the proposal for a traveller site in the countryside would be supported. The method for ensuring new traveller development is delivered and controlled are set out within the PPTS and local policies and these are to be considered in further detail below.

7.22 **Residential Amenity**

7.23 Policy ENV2 of the Local Plan requires proposals to ensure that there are no significantly detrimental effects on the residential amenity of nearby occupiers and that occupiers of new dwellings enjoy high standards of amenity. This policy accords with Chapter 12 of the National Planning Policy Framework (NPPF) which aims to achieve high standards of amenity.

7.24 The application site is located within an isolated location, with the nearest habitable dwelling being located to the north, over 150m away. Officers are mindful that the retained use being sought is for a residential use which would generate modest degrees of noise when occupants are using the private garden. The noise generated from residential activity would be unlikely to be impact on the amenities of 'Woodlands', owing to the distances between the sites. As such, no policy-based concerns are raised in this regard.

7.25 **Visual Amenity**

7.26 Policy HOU9 sets out criteria as to a site's suitability for occupation by those who meet the planning definition set out in Planning Policy for traveller Sites (2024) PPTS. Decisions are made on a 'case by case' basis subject to the considerations, such as those laid out below which relate to visual amenity;

- There is no significant adverse impact on the character and appearance of the countryside and setting of settlements.
- The site would not lead to the loss or adverse impact on historic and natural environment assets as defined in Policies ENV7 and ENV 11-15.
- The scale of the proposal is not disproportionate to the size of the nearest settlement and the availability of community facilities and infrastructure.

7.27 The PPTS (2024) sets out within policy H that Local Planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community; which is considered consistent with the context of Policy HOU9.

- 7.28 The in-situ arrangement of the site comprises single storey caravans, ancillary structures and associated hardstanding. It is noted that the site has been enclosed by 'picket style' low level fencing. Lighting exists on mounted poles within the site.
- 7.29 Within the assessment of application 22/00341/FUM, the case officer identified Pools Road to have in essence two-character areas. The area to the east, within which the application site is located, was characterised as being open fen landscape with open fields which included paddocks. The land upon which the development is located had previously demonstrated these traits and the land around and beyond the in-situ arrangement maintains this character. This character assessment is consistent with the comments of the planning Inspector within the appeal decision of application 22/00341/FUM where it was considered that, 'development away from the main settlements is generally sparse and sporadic and focused along straight road frontages.'
- 7.30 Para 26 of the PPTS (2024) sets out that 'local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan'. The 'PPTS' seeks to limit but not resist sites within the countryside meaning there would be a degree of harm to the character and appearance of the countryside in the event of plots being proposed. This was accepted by the Inspector under the assessment of the neighbouring within the appeal against the refusal of 22/00341/FUM.
- 7.31 The appeal decision remains a material consideration in the assessment of this application, as a result of being considered under the same development plan and no other material changes to policy, the comments remain relevant.
- 7.32 The Inspector further noted that the proposal for 10 pitches to the east of the application site was considered to have a greater impact on the setting of the countryside. This was owing to the pitches running deeper into the countryside with a vertical element where it was noted that land levels rose gently which would exacerbate the harm. The Inspector noted that other traveller sites in the locality were mainly on shallower plots that run along the public highway, considered to confine the visual impact. '
- 7.33 The in-situ arrangement appears to have responded to the Inspector's comments by arranging the development horizontally across the frontage of the public highway. Whilst officers note there is an incursion into the countryside, the buildings are viewed against the backdrop of equestrian buildings immediately to the north of the site which creates a visual breakage between open land within the countryside and the enclosed development. The visual perception of the development within the wider setting could be further mitigated through the delivery of robust landscaping and planting, which if appropriately designed, could limit views from the road and adjoining public vantage points. This would focus the perception of the development within this pocket of Pools Road, being consistent with the Inspector's comments that existing traveller sites in the locality and on shallower plots that run along the public highway.
- 7.34 Having regard for the impact on visual amenity, officers consider there would be a moderate degree of harm to the setting when considering the in-situ arrangement

with the previously open nature of the land. The harm arising from the retention of the development has been considered having regard for the appeal decision at the neighbouring site (APP/V0510/W/23/3320862) which forms a material consideration in the assessment of this application and is given significant weight. In light of the comments raised by the Inspector within the assessment of the appeal, the concentration of the development along the highway when coupled with a landscaping scheme would serve to minimise the harm to the landscape setting. The development would in turn be more consistent with other traveller and gypsy sites to the west which is also identified within the appeal decision. As such, the moderate degree of harm that arises to the setting of the countryside is outweighed by these matters.

7.35 Highways

7.36 Policy ENV2 of the East Cambridgeshire Local Plan 2015 sets out that development proposals will be required to incorporate the highway and access principles contained in Policy COM7 of the Local Plan 2015 to ensure minimisation of conflict between vehicles, pedestrians and cyclists; safe and convenient access for people with disabilities, good access to public transport, permeability to pedestrian and cycle routes; and protection of rights of way.

7.37 The application site is served by an existing and lawfully established access road which was granted as part of a scheme at the site to change the use of the land to equestrian use, including the erection of livery stables and outdoor riding arena under application 13/01117/FUM. The access appears to remain unaltered in its siting and extent from the highway into the site when compared to the current, in-situ arrangement. Officers note that the access was previously considered acceptable by the Local Planning Authority; having regard for the presence of a ditch adjacent the site and land immediately abutting the access being outside of the applicant's ownership, it is unlikely there would be capacity for the introduction of planting or highway paraphernalia which would limit visibility splays in each direction.

7.38 The application site has been identified as being within the countryside and it is noted that it is in a rural location, absent of pedestrian footpaths that would connect the site to Witchford, nearby settlements or Ely. Within the appeal decision at land North of Pools Road (22/00341/FUL), the Inspector noted the absence of footpaths along this part of Pool Road as well as the 'lack of a convenient bus service', with Witchford identified as the nearest settlement with a good range of services and Ely being a shorter distance away thereby increasing the reliability on cars for development in this part of the road. Whilst this led officers to the initial conclusion that the neighbouring site was in a less sustainable location, the Inspector identified that Gypsy and traveller sites were one of the exceptions given in policy GROWTH 2 thereby naturally leading to such provision within the District being further from established settlements where development would primarily be focused. It was concluded that slightly longer car trips to Witchford and Ely would be available and that there would be no significant harm from any conflict with Policy COM7. In light of this decision at a site approximately 150m away from the site, the subject of this application, it would be reasonable to conclude that the occupants would have reasonable access to local services and provisions within the district.

7.39 Policy COM8 of the Local Plan 2015 seeks to ensure that proposals provide adequate levels of parking. There remains sufficient parking within the site for the likely level of occupancy associated with the use of land and no policy-based concerns are raised in this regard.

7.40 **Ecology**

7.41 Policy ENV 7 of the East Cambs District Council Local Plan 2015 seeks to protect the biodiversity and geological value of land and buildings and minimise harm to or loss of environmental features such as trees, hedgerows, woodland, wetland and ponds. The Natural Environment SPD Policy SPD NE6 seeks to ensure that all new development proposals contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

7.42 The application is supported by a preliminary ecological appraisal of the site. The report concluded that there were no roosts on site or impact on protected species as a result of the development. It is noted that the PEA was undertaken post the works having been carried out on site, with the land having previously been open land. As the works had been carried out, a pre-development assessment of the site would have been more appropriate in considering any loss of habitat from the land, although officers conclude that the retrospective nature of the proposal would not now allow for this.

7.43 The application was assessed by the Council's ecologist who considered there to be potential for BNG opportunities within the site. In this instance, BNG exemption applies to retrospective planning permissions, notably those under Section 73A of the Town and Country Planning Act meaning there would be no lawful mechanism to deliver 10% BNG within the site. Notwithstanding this, there remains opportunities to increase the ecological value of the site through the delivery of enhancements such as bird/bat boxes and hedgehog houses. This is proposed as a condition within Appendix 1.

7.44 **Flood Risk and Drainage**

7.45 The application site is located within Flood Zone 3, as identified within the EA Maps for planning meaning it has a high probability of fluvial flooding. The Environment Agency were consulted on the application and highlighted that the site is considered to be at risk from flooding from an internal watercourse as opposed to rivers and seas. Officers note that this is consistent with the advice offered by the EA to the Local planning authority within the assessment of application 22/00341/FUM.

7.46 Within the assessment of development at the neighbouring site, officers had concluded that whilst the site was shown to be at high risk of flooding, that the information provided by the EA would have superseded this given the distance of the site from the nearest water course. It was not considered that a sequential test was required for the development of 10 pitches to the west and in light of the consistency in advice from the EA, it would be unreasonable to trigger this requirement for a smaller scale development, of a similar use, within the same flood zone.

7.47 The application proposal is supported by a Flood Risk Assessment prepared by MTC Engineering. The report identifies that the proposal lies within Flood Zone 3 and that the drainage systems for which the IDB are responsible are primarily pumped systems. It also sets out that the EA are responsible for a number of defences in the area including Hundred Foot Washes and Nene Washes. The report considers that the data for the Fens and surrounding area remains out of date as it relies solely on data from prior to the Fens being drained and the subject of protection measures. This is consistent with comments received by officers during the assessment of application 22/00341/FUM where it was commented by the EA that,

“...there is no [hazard mapping] Product 8 data available for this site (NGR TL5017877983). The site is not located within an area of Tidal or Fluvial Breach Hazard Mapping. “Additionally, the site is located around 4km from the nearest designated Main River and therefore there is no Product 4 data available.”

7.48 The FRA demonstrates that the occupiers of the land would unlikely be at risk owing to the outdated mapping and the required failure of all defences and pumps in parallel for water to collect and group, which would represent a very low likelihood scenario. As this justification was previously agreed by officers within the neighbouring site, there are no material considerations presented by the EA or available to officers which would reasonably progress to a different conclusion. As such, the proposal is considered to broadly comply with the Local Plan and Chapter 14 of the NPPF (2024).

7.49 Other Material Matters

Human Rights Act

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). Under the Act, it is unlawful for a public authority, such as East Cambridgeshire District Council, to act in a manner that is incompatible with the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance. The Council is also permitted to control the use of property in accordance with the general interest and the recommendation set out below is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Equalities and Diversities

In considering this planning application due regard has been had to the public sector equality duty (PSED) under Section 149 of the Equality Act 2010, which means that the Council must have due regard to the need (in discharging its functions) to put an end to unlawful behaviour that is banned by the Equality Act, including discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who have a protected

characteristic and those who do not. Account has been taken of the PSED and it is considered that the recommendation set out below would not undermine the objectives of the duty.

7.50 Planning Balance

7.51 The proposal involves the retention of an existing static caravan, mobile caravan and associated development with the use of land for the gypsy and traveller community. The local planning authority are unable to demonstrate an appropriate level supply of pitches/sites for the gypsy and traveller community, as set out by an Inspector under ref (APP/V0510/W/19/3243732). In assessing the merits of the application, officers have given substantial weighting to the appeal decisions within the associated appendices as well as the updated PPTS (2024). The provision of one unit would contribute moderately to the likely demand for pitches, although in the absence of an updated consideration of the supply it would not be possible for officers to set out the true contribution of the single site.

7.52 Having consideration for other matters, it has been identified that there would be moderate harm to the setting of the countryside. In having regard for the comments of the Inspector following the refusal of application ref 22/00341/FUM, it is considered that the harm identified would be moderate and outweighed by the arrangement of the site and capacity to deliver landscaping provision within the site which would mitigate any greater harm from occurring. In addition, the proposal satisfies the context of Policy HOU9 which would contribute to outweighing the harm identified to the landscape.

7.53 On balance, it is considered the merits of the proposal and other material considerations considered, to include recent appeal decisions, demonstrate that the retention of the development would contribute to an unknown level of need in the District. Any harm that would arise to the setting of the countryside would be outweighed by the proposal broadly satisfying the broad context of Policy HOU9 and the PPTS (2024).

8.0 APPENDICES

8.1 Appendix 1 – Proposed Conditions

8.2 Appendix 2 – Appeal Decision (APP/V0510/W/23/3320862)

PLANS

The following plans are a selection of those submitted as part of the application and are provided to illustrate the proposed development. They may not be to scale. The full suite of plans can be found on the Council's website.

24/01323/FUL



APPENDIX 1 – 24/01323/FUM Conditions

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
P-8741-01		19.12.2024
P-8741-02		19.12.2024
P-8741-03		19.12.2024
Preliminary ecological App		19.12.2024
Flood Risk Assessment		19.12.2024
Planning Statement		19.12.2024

- 1 Reason: To define the scope and extent of this permission.
- 2 The materials of the existing static caravan, hereby retained, shall be maintained for the duration of the use of the land, hereby approved.
- 2 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 3 Within two months of the date of the decision, a scheme for the maintenance of the soft landscaping for a minimum period of 5 years from last occupation, shall be submitted to and agreed in writing by the Local Planning Authority. All works shall be maintained in accordance with the agreed scheme. The scheme shall include the following:
 - i) methods for the proposed maintenance regime;
 - ii) detailed schedule;
 - iii) details of who will be responsible for the continuing implementation
 - iv) details of any phasing arrangements
- 3 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 (as amended 2023).
- 4 All soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 4 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 (as amended 2023).

- 5 Notwithstanding the approved plans, no further external lighting shall be erected within the application site until details of the proposed lights, their specification, location, the orientation/angle of the luminaries, predicted light spill and hours of proposed use, have been submitted to and approved in writing by the Local Planning Authority. Any external lighting that is installed shall be implemented in accordance with the approved scheme and thereafter maintained and retained as agreed.
- 5 Reason: To safeguard the character and appearance of the area and local biodiversity and ecology, in accordance with Policies ENV 1, ENV 2 and ENV 7 of the East Cambridgeshire Local Plan 2015 (as amended 2023) and the Natural Environment SPD.
- 6 Within two calendar months of the date of the decision notice, a detailed scheme for biodiversity enhancement measures, including a timescale for implementation and a Landscape and Ecological Management Plan covering a minimum of 30 years from the implementation of the measures, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP should have regard for (i) landscaping to be retained, and methods of their protection during construction. Thereafter the approved scheme shall be implemented in accordance with the approved timescale and managed in accordance with the approved LEMP.
- 6 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 (as amended 2023) and the Natural Environment SPD, 2020.
- 7 Within three months of the date of the decision notice, a scheme of hedgehog recovery measures has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved measures shall be maintained for a minimum of 10 years following their installation.
- 7 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 (as amended 2023) and in accordance with policy SPD HR1 of the Hedgehog Recovery SPD 2024.
- 8 Within two calendar months of this decision notice, details of the boundary treatments shall have been submitted to and agreed in writing with the Local Planning Authority. The boundary treatments shall be in situ in accordance with the approved details within two calendar months of the approval of such details, by the Local Planning Authority.
- 8 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.